



Federal Communications Commission  
Washington, D.C. 20554

December 19, 2003

DA 03-3844

Arthur V. Belendiuk  
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Stephen L. Earnest  
Regulatory Counsel  
BellSouth Corporation  
675 West Peachtree Street  
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Re: WC Docket No. 02-215

Dear Messrs. Belendiuk and Earnest:

In response to an investigation by the staff of the Wireless Telecommunications Bureau (Bureau) into facts and circumstances that may have triggered application of section 1.935 of the Commission's rules,<sup>1</sup> on September 30, 2003, BellSouth Telecommunications, Inc. (BellSouth) filed a letter by which BellSouth, pursuant to section 1.935, seeks approval of its "refraining from filing an opposition" in the license transfer proceeding involving WorldCom, Inc. (WorldCom).<sup>2</sup> The filing included two attachments consisting of a settlement agreement between BellSouth and WorldCom, and a Motion for Approval with a supporting affidavit.<sup>3</sup>

On October 6, 2003, WorldCom (dba MCI) filed a letter and two attachments, consisting of a certification in connection with the agreement with BellSouth and a supporting affidavit.<sup>4</sup>

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<sup>1</sup> 47 C.F.R. § 1.935. Section 1.935 provides, in pertinent part, that a party that has threatened to file an opposition to an application and then agrees to refrain from filing that opposition must obtain approval of any related settlement agreement.

<sup>2</sup> Letter from Stephen L. Earnest, Regulatory Counsel, BellSouth Corporation, to Marlene H. Dortch, Secretary, Federal Communications Commission at 1 (filed Sept. 30, 2003).

<sup>3</sup> BellSouth requested confidential treatment of the settlement agreement and affidavit; these documents are subject to a *Protective Order*. In the Matter of WorldCom, Inc. and its Subsidiaries (debtors-in-possession), Transferor, and MCI, Inc., Transferee, Applications for Consent to Transfer and/or Assign Authorizations and Licenses, WC Docket No. 02-215, *Protective Order*, DA 03-3545 (WTB, CWD rel. Nov. 4, 2003) (*Protective Order*), *modified by Order*, DA 03-3745 (WTB, CWD rel. Nov. 21, 2003).

<sup>4</sup> Letter from Dennis Guard, Attorney, MCI, to Marlene H. Dortch, Secretary, Federal Communications Commission at 1 (filed Oct. 6, 2003). MCI requested confidential treatment of the certification and affidavit; these documents are subject to the *Protective Order*.

On October 15, 2003, Margaret Snyder filed a Fourth Supplement to Petition to Deny Transfer of Licenses, Authorizations, and Certifications of WorldCom, Inc. and Request to Inspect Documents (Snyder Fourth Supplement).<sup>5</sup> On November 4, 2003, the Bureau issued a *Protective Order*, which enabled Mr. Belendiuk, Ms. Snyder's counsel, to review all of the documents specified in Ms. Snyder's Fourth Supplement.<sup>6</sup> Ms. Snyder also requested that the Commission investigate whether WorldCom may have violated section 1.935.<sup>7</sup>

On December 1, 2003, Ms. Snyder filed a Sixth Supplement to Petition to Deny Transfer of Licenses, Authorizations, and Certifications of WorldCom, Inc. (Snyder Sixth Supplement). Ms. Snyder alleges that WorldCom abused the Commission's process by inducing BellSouth to withhold unspecified information from the FCC, and argues that the Commission should investigate whether BellSouth's agreement with WorldCom violates section 1.935.<sup>8</sup> The Bureau has reviewed BellSouth's agreement with WorldCom, the documents filed by these parties, and the evidence concerning potential threats to oppose WorldCom's applications. We find that there is insufficient evidence to conclude that Bellsouth made the type of threat covered by section 1.935 and, therefore, the agreement is not covered by the rule. The Bureau greatly appreciates the parties' cooperation with the staff's inquiry into this matter.

Accordingly, BellSouth's Motion for Approval is hereby DISMISSED, and Ms. Snyder's Fourth and Sixth Supplements regarding BellSouth's agreement with WorldCom are hereby DISMISSED as MOOT.<sup>9</sup>

Sincerely,

John B. Muleta  
Chief  
Wireless Telecommunications Bureau

CC: Dennis Guard, MCI

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<sup>5</sup> Ms. Snyder filed a Petition to Deny in this proceeding on August 7, 2003. *See generally* Margaret F. Snyder, Petition to Deny Transfer of Licenses, Authorizations, and Certifications of WorldCom, Inc., WC Docket No. 02-215 (filed Aug. 7, 2003).

<sup>6</sup> *See supra* n.3.

<sup>7</sup> Snyder Fourth Supplement at 4.

<sup>8</sup> Snyder Sixth Supplement at 10.

<sup>9</sup> In separate rulings today, the Bureau dismisses Ms. Snyder's Fourth and Sixth Supplements as moot regarding certain WorldCom agreements with Verizon and SBC. *See* Letter from John Muleta, Chief, Wireless Telecommunications Bureau, to Arthur V. Belendiuk, counsel to Ms. Snyder, and Ann H. Rakestraw, Assistant General Counsel, Verizon, DA 03-3845 (rel. Dec. 19, 2003) and Letter from John Muleta, Chief, Wireless Telecommunications Bureau, to Arthur V. Belendiuk, counsel to Ms. Snyder, and Jim Lamoureux, Senior Counsel, SBC Telecommunications, Inc., DA 03-3846 (rel. Dec. 19, 2003).